

ASSEMBLY BILL

No. 143

Introduced by Assembly Member Wood

January 12, 2015

An act to amend Sections 113789 and 114289 of the Health and Safety Code, relating to food facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 143, as introduced, Wood. Food facilities.

Existing law, the California Retail Food Code, establishes uniform health and sanitation standards for retail food facilities, as defined. Existing law exempts from the definition of food facility premises set aside for wine tasting, regardless of whether there is a charge for the wine tasting, if no other beverage, except for bottles of wine and prepackaged nonpotentially hazardous beverages, is offered for sale for onsite consumption and no food, except for crackers, is served. Existing law prohibits certain premises from having a food display area that exceeds 25 square feet, and subjects certain facilities or premises with a food display area of 25 square feet or less to specified provisions of the code. Existing law provides that local health agencies are primarily responsible for enforcing these provisions. A person who violates any provision of the code is guilty of a misdemeanor, except as otherwise provided.

This bill would additionally exclude from the definition of food facility a premises set aside for wine tasting that offers pretzels or prepackaged nonpotentially hazardous food for onsite consumption. The bill would limit the food display area in premises set aside for wine tasting to 25 square feet and subject those premises to specified provisions of the California Retail Food Code. By expanding the

definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 113789 of the Health and Safety Code,
- 2 as amended by Section 1.2 of Chapter 927 of the Statutes of 2014,
- 3 is amended to read:
- 4 113789. (a) "Food facility" means an operation that stores,
- 5 prepares, packages, serves, vends, or otherwise provides food for
- 6 human consumption at the retail level, including, but not limited
- 7 to, the following:
- 8 (1) An operation where food is consumed on or off the premises,
- 9 regardless of whether there is a charge for the food.
- 10 (2) A place used in conjunction with the operations described
- 11 in this subdivision, including, but not limited to, storage facilities
- 12 for food-related utensils, equipment, and materials.
- 13 (b) "Food facility" includes permanent and nonpermanent food
- 14 facilities, including, but not limited to, the following:
- 15 (1) Public and private school cafeterias.
- 16 (2) Restricted food service facilities.
- 17 (3) Licensed health care facilities, except as provided in
- 18 paragraph (13) of subdivision (c).
- 19 (4) Commissaries.
- 20 (5) Mobile food facilities.
- 21 (6) Mobile support units.
- 22 (7) Temporary food facilities.
- 23 (8) Vending machines.
- 24 (9) Certified farmers' markets, for purposes of permitting and
- 25 enforcement pursuant to Section 114370.
- 26 (10) Farm stands, for purposes of permitting and enforcement
- 27 pursuant to Section 114375.
- 28 (c) "Food facility" does not include any of the following:

1 (1) A cooperative arrangement wherein no permanent facilities
2 are used for storing or handling food.

3 (2) A private home, including a cottage food operation that is
4 registered or has a permit pursuant to Section 114365.

5 (3) A church, private club, or other nonprofit association that
6 gives or sells food to its members and guests, and not to the general
7 public, at an event that occurs not more than three days in any
8 90-day period.

9 (4) A for-profit entity that gives or sells food at an event that
10 occurs not more than three days in a 90-day period for the benefit
11 of a nonprofit association, if the for-profit entity receives no
12 monetary benefit, other than that resulting from recognition from
13 participating in an event.

14 (5) Premises set aside for wine tasting, as that term is used in
15 Section 23356.1 of the Business and Professions Code, *or premises*
16 *set aside by a beer manufacturer, as defined in Section 25000.2*
17 *of the Business and Professions Code*, and in the regulations
18 adopted pursuant to ~~that section~~, *those sections*, that comply with
19 Section 118375, regardless of whether there is a charge for the
20 wine *or beer* tasting, if no other beverage, except for bottles of
21 wine *or beer* and prepackaged nonpotentially hazardous beverages,
22 is offered for sale for onsite consumption and no food, except for
23 crackers, *pretzels, or prepackaged food that is not potentially*
24 *hazardous food* is ~~served~~ *offered for onsite consumption*.

25 (6) Premises operated by a producer, selling or offering for sale
26 only whole produce grown by the producer or shell eggs, or both,
27 provided the sales are conducted on premises controlled by the
28 producer.

29 (7) A commercial food processing establishment as defined in
30 Section 111955.

31 (8) A child day care facility, as defined in Section 1596.750.

32 (9) A community care facility, as defined in Section 1502.

33 (10) A residential care facility for the elderly, as defined in
34 Section 1569.2.

35 (11) A residential care facility for the chronically ill, which has
36 the same meaning as a residential care facility, as defined in Section
37 1568.01.

38 ~~(12) Premises set aside by a beer manufacturer, as defined in~~
39 ~~Section 25000.2 of the Business and Professions Code, that comply~~
40 ~~with Section 118375, for the purposes of beer tasting, regardless~~

1 of whether there is a charge for the beer tasting, if no other
2 beverage, except for beer and prepackaged nonpotentially
3 hazardous beverages, is offered for sale for onsite consumption,
4 and no food, except for crackers, pretzels, or prepackaged food
5 that is not potentially hazardous food is offered for onsite
6 consumption.

7 (13)

8 (12) (A) An intermediate care facility for the developmentally
9 disabled, as defined in subdivisions (e), (h), and (m) of Section
10 1250, with a capacity of six beds or fewer.

11 (B) A facility described in subparagraph (A) shall report any
12 foodborne illness or outbreak to the local health department and
13 to the State Department of Public Health within 24 hours of the
14 illness or outbreak.

15 (14)

16 (13) A community food producer, as defined in Section 113752.

17 SEC. 2. Section 114289 of the Health and Safety Code, as
18 amended by Section 2 of Chapter 927 of the Statutes of 2014, is
19 amended to read:

20 114289. (a) Notwithstanding any law to the contrary, a
21 permanent food facility that has less than 300 square feet of display
22 area and that sells only prepackaged food that is not potentially
23 hazardous food shall be exempt from the requirements of this part
24 except as set forth in subdivision (c).

25 (b) Notwithstanding any law to the contrary, a premises set
26 aside for wine tasting, as that term is defined in Section 23356.1
27 of the Business and Professions Code, or a premises set aside by
28 a beer manufacturer, as defined in Section 25000.2 of the Business
29 and Professions Code, that complies with Section 118375, for the
30 purposes of wine or beer tasting, regardless of whether there is a
31 charge for the wine or beer tasting, if no other beverage, except
32 for bottles of wine or beer and prepackaged nonpotentially
33 hazardous beverages, is offered for sale for onsite consumption,
34 and crackers, pretzels, or prepackaged food that is not potentially
35 hazardous food is offered for onsite consumption shall be subject
36 to the requirements set forth in paragraph (1) of subdivision (c).
37 These facilities shall not have a food display area greater than 25
38 square feet.

39 (c) (1) A facility or premises with a food display area of 25
40 square feet or less shall comply with all of the following:

1 (A) Sections 113980, 114047, 114049, 114390, 114393, 114395,
2 114397, and 114399.

3 (B) Chapter 1 (commencing with Section 113700).

4 (C) Chapter 2 (commencing with Section 113728).

5 (2) A permanent food facility with a food display area greater
6 than 25 square feet, but less than 300 square feet, shall comply
7 with all of the following:

8 (A) Sections 113980, 114047, 114049, 114250, 114266, 114381,
9 114387, 114390, 114393, 114395, 114397, 114399, 114405,
10 114407, 114409, 114411, and 114413.

11 (B) Chapter 1 (commencing with Section 113700).

12 (C) Chapter 2 (commencing with Section 113728).

13 SEC. 3. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.